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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/612,346 | 07/02/2003 | Daniel W. Mauney | 27592-00162-US5 | 3780 |
| 7590 11/27/2007 Connolly Bove Lodge & Hutz LLP 1990 M Street NW, Suite 800 Washington, DC 20036-3425 | | | EXAMINER TRAN, TUAN A | |
| | | | ART UNIT 2618 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/612,346

Applicant(s)

MAUNEY ET AL.

Examiner

Tuan A. Tran

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7,11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,7,11 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 6-7, 11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haartsen (6,590,928).

Regarding claims 14-15 and 17, Haartsen discloses an apparatus and method for establishing communication, the method comprising: communicating with a proximally located peer wireless device using short-range signal; and receiving a list of wireless device addresses from the proximally located peer wireless device (See col.11 lines 24-31, col. 14 line 66 to col. 15 line 45). However, Haartsen does not mention the steps of communicating with a wireless network using long range signal (the long range signal is commonly known to be greater than the short-range signal in strength); transmitting a find message including at least one wireless device address included in the list of wireless device addresses by using the long range signal; and receiving a response message associated with the wireless device associated with the at least one wireless device address included in the find message. Since wireless communication device comprising both long range (i.e. cellular transceiver) and short-range transceivers is well known in the art (Official Notice taken by the Examiner) as shown by U.S. patent No.

6,134,437 issued to Karabinis as evidence (See figs. 1-2), wherein a cellular telephone, widely known in the art, allows its user to activate the cellular telephone during its standby state or idle state to transmit a text message to other recognized cellular phone user (from the stored address list) (i.e. "find message" such as "where are you?") via cellular phone network as well as allows the user, via the cellular telephone, to receive a reply text message from the other user (i.e. "response message" such as "I am in Bailey's Sport Bar on King Street") to determine, by the user, whether the other user is proximally located; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the system as disclosed by Haartsen with such mentioned features for the advantage of expanding the capability of the device to various types of communication protocols.

Claims 6-7 and 11 are rejected for the same reasons as set forth in claims 14-15 and 17, as apparatus.

Regarding claim 13, Haartsen discloses as cited in claim 6. Haartsen further discloses a memory for storing a list of wireless device addresses (See col. 14 lines 1-5).

Regarding claim 16, Haartsen discloses as cited in claim 14. Haartsen further discloses the step of appending the list of wireless device addresses to a previously stored list of wireless device addresses (See col. 14 lines 1-5).

Regarding claims 18-20, Haartsen & Hall disclose as cited in claim 14. Haartsen further discloses the steps of transmitting a page message including the at least one wireless device address (See col. 20 lines 19-33); establishing a voice transmission with

a wireless device associated with the at least one wireless device address; or transmitting a text message to a wireless device associated with the at least one wireless device address (See col. 12 line 50 to col. 13 line 16, col. 13 lines 46-48).

Response to Arguments

Applicant's arguments filed 09/10/2007 have been fully considered but they are not persuasive.

The applicant argued and tried to establish a case where the wireless communication device is capable of **automatically determining** other wireless communication devices that are within range utilizing a find feature (See Remark, page 8 first and second paragraphs). Such limitations and/or features are not in claims. The limitation "transmitting a find message to determine if an object is within range", as recited in claims 6 and 14, is not narrow enough to prevent a determination of proximally located objects (i.e. other wireless communication devices carried by other users) from being made **by the user** (not automatically by the device) by interpreting the content of the reply text message from the other user in response to the text message (i.e. "find message" such as "where are you?") transmitted to the other user by the user via the wireless communication device such as a cellular telephone.

The applicant argued that text messaging cannot occur during an idle state of a handset but in an active state of the handset (See Remark, page 8 third paragraph). As disclosed in the Specification, the wireless communication device, during its idle state, comes to an active state (paging state) to page the find message (See Specification, page 10 [0133]). In this instant case, the cellular telephone, widely known in the art,

allows its user to activate the cellular telephone during its standby state or idle state (comes to an active state) to transmit a text message.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571) 272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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